

AMENDMENT UNDER OAL RULE 100

Statement of Reasons

Title 18. Public Revenue

Sales and Use Tax Regulation 1707, *Electronic Funds Transfer*

Factual Basis.

Regulation 1707 interprets and explains the operation of the Electronic Funds Transfer program. The State Board of Equalization hereby proposes to amend this regulation under OAL Rule 100. The purpose of the proposed amendments is to conform the regulation to Section 6479.3, amended by Assembly Bill (AB) 139 (Stats. 2005, Ch. 74), and AB 1765 (Stats. 2005, Ch. 519), operative January 1, 2006, and to clarify who must file an authorization agreement.

Effective June 26, 2003, the Board promulgated Regulation 1707, in part to implement and interpret RTC section 6479.3. Last July, the budget trailer bill, AB 139 amended RTC section 6479.3 to reduce the threshold for mandatory participation in the electronic funds transfer (EFT) program from an estimated monthly tax liability of \$20,000 or more to \$10,000 or more, operative July 19, 2005. Subsequently, AB 1765 changed the operative date for the reduction in the threshold for mandatory participation in the EFT program from July 19, 2005 to January 1, 2006. AB 1765 also deleted a provision in RTC section 6479.3 that states a person whose monthly tax liability does not meet or exceed the threshold for mandatory participation in the EFT program, but who voluntarily participates in the EFT program, must do so for a minimum of one year. Accordingly, revisions to the regulation are necessary to specify the reduction in the threshold for mandatory participation in the EFT program, and to delete the language that explained that a person who voluntarily participates in the EFT program must remain in the program for a minimum of one year.

The Board also proposes to amend the regulation for clarification only. In subdivision (b)(2), Regulation 1707 explains that to participate in the EFT program on a voluntary basis, a person must first “register” with the Board. The word “register” could lead to confusion, since “register” is generally a term of art meaning “obtain a seller’s permit.” A person must file an “authorization agreement” with the Board prior to voluntary participation in the EFT program. As a result, the Board is replacing the word “register” with the phrase “file an authorization agreement” for clarification.

Proposed Amendments

Subdivision (b)(1)- phrase “Prior to January 1, 2006,” added and word “Person” changed to lower case accordingly, and new second sentence added to interpret and implement AB 139 and AB 1765. Number “twenty thousand dollars” replaced with phrase “the threshold for mandatory participation” to both implement AB 139 and to provide for a general reference in the regulation so if the threshold amount is changed again, the regulation does not have to be amended. 1st un-numbered paragraph. Phrase “of twenty thousand dollars (\$20,000) or more per month” replaced with phrase “that . . . program” and phrase “twenty thousand dollars per month” replaced with “the . . . participation” for the same reason. Subdivision (b)(2)- word “register” replaced with phrase “file an authorization agreement” to avoid confusion with the requirements for obtaining a seller’s permit; phrase “and must remain in the program for a minimum of one year. After that time, i” deleted and a period added after word “participation” to interpret and implement AB 139. Word “if” changed to upper case accordingly.